

UNWCC

Trial of Hans
Reparations No 49.

THE TRIAL OF

Dr. T.

1. Kriminalsekretär Johan ARNDT,
2. Interpreter Peter LAUER,
3. Oberregierungsrat Ernst WEIMANN, and
4. Kriminalkommissar Walter KUPER.

Report by the Norwegian Representatives, T. Aars-Pyning

Trial by the Gulatings Lagmennsrett, September, 1946,

Trial by the Supreme Court, August, 1947.

Public Prosecutor: Statsadvokat Harald Sund,

Counsel for the Defence: Høyesterettsadvokat Chr.L. Jensen.

Charge: Brutal torture of Norwegian prisoners which in two cases resulted in the victims' death.

Indictment:

Defendants ARNDT and LAUER were charged by the Director of Public Prosecutions with having committed war crimes which were in violation of:

§ 3, cf. § 1 of Law No. 3 of 6th July, 1945, cf. §§ 228 and 229 of the Civil Criminal Code.

Defendants WEIMANN and KUPER were charged by the Director of Public Prosecutions with having committed war crimes which were in violation of:

§ 3, cf. § 1 of Law No. 3 of 6th July, 1945, cf. §§ 228, 229, 271, 272 of the Civil Criminal Code.

Statement of Facts.

Defendant ARNDT (b. 25.4.11.) came to Norway in December, 1941. He held the rank of Hauptscharführer and was employed as Kriminalsekretär in the Sipo in Bergen. While in office, defendant ARNDT took part in the interrogation of prisoners and it has been established that he used the method of "verschärfte Vernehmung" on 24 named Norwegians, among them two women.

Defendant LAUER (b. 29.10.09.) came to Norway in 1926, as factory worker. In April, 1940, he became interpreter at the Sipo in Bergen. Since August, 1944, until the liberation he was working for defendant ARNDT, and it has been established that during that time he used the method of "verschärfte Vernehmung" on 15 named Norwegian prisoners.

Defendant WEIMANN (b. 5.8.06.) came to Norway in July, 1944, as chief of the

German Sipo in Bergen. He was also in charge of the Aussendienststellen of Höyanger in Odda, Aardalstangen and Florø. He is charged with having given permission for the employment of the method of "verschärfte Vernehmung", implying an illegal form of torture, in the interrogation of 23 named Norwegian prisoners, one of whom was a woman. In two cases the torture was so severe that the prisoners ^{did} ~~die~~ from the after-effects of the ill-treatment.

Defendant KUPER (b. 19.12.04.) came to Norway in November, 1941. In April 1944, he became chief of Abteilung 4 of the Bergen Sipo. He ^{was} ~~is~~ charged with being responsible for 19 cases of "verschärfte Vernehmung" which in two instances resulted in the death of the victims.

Sentence of the Lagmannsrett on 13th December, 1946.

Defendants ARNDT and WEIMANN were sentenced to death by shooting and defendant LAUER and KUPER were sentenced to 20 years penal servitude each.

The sentence was not unanimous as one of the lay judges voted for life imprisonment for defendants ARNDT and WEIMANN and another lay judge proposed life sentence for defendant KUPER.

Notes on the Sentence by the Lagmannsrett.

~~Examination~~ All defendants were found guilty of having committed the crimes for which they were indicted.

The method of "verschärfte Vernehmung" was based on a so-called "Ministerialerlass" of 1937 or 1938, which permitted certain forms of torture during the interrogation of prisoners in cases where it was necessary to extort information. But the Ministerialerlass decreed that only the Kommandör was entitled to give orders for "verschärfte Vernehmung" and that the order or permission had to be given in each ~~case~~ individual case. For that purpose a special form had to be filled containing the exact form of torture to be employed. The Kommandör was supposed to inform Odo whenever such an interrogation had taken place.

The Court established that defendant WEIMANN was aware that his subordinates used methods other ^{than} ~~than~~ those officially permitted during "verschärfte Vernehmung" and also that they did not always bother about the necessary permits.

~~Defendant KUPER~~ Though it had not been established that defendant KUPER himself had given such orders, he had never refused to forward any applications and

had never interfered when torture was suggested.

The Court felt satisfied that all four defendants must have been aware that their acts were at variance with the laws and customs of war and that they were inflicting grievous bodily harm on prisoners or that they were accomplices thereto.

The Court assumed that defendants ARNDT and LAUER had mainly acted on superior orders and that defendants WEIMANN and KUPER had acted on the authority of the above mentioned Ministerialerlass, neither of which reasons could, however, be pleaded in exculpation.

The Court could not accept the ^{Co}ntention that the defendants had acted in the interests of their own country or that they had been afraid to refuse to obey orders.

When considering the punishment for defendant ARNDT, the Court found that ~~although~~ although the defendant himself had not used any method of torture which was not officially approved of and had used "verschürfte Vernehmung" only in cases where it ~~seemed~~ really necessary in his opinion, the instances were too numerous and too serious to allow for any other punishment but the death sentence.

When considering the punishment of defendant LAUER, the Court found it an aggravating circumstance that the defendant who had lived so long in Norway, had felt no compunction to act against Norwegian interests.

As to defendant WEIMANN, the Court found that though he himself had not taken part in the ill-treatment of prisoners, he was a judge ^{by} profession and ought to have realised more than anyone how wrong it was to tolerate torture when interrogating prisoners. The Court considered it a particularly aggravating circumstance that despite the fact that two prisoners had died as a result of "verschürfte Vernehmung", the defendant neither changed his methods nor denied his subordinates the use of torture.

As to defendant KUPER, the Court found that though he himself had been present only at some isolated cases of torture and never gave orders for "verschürfte Vernehmung" himself, he was nevertheless responsible as chief of Abteilung 4 for the acts of torture carried out by his subordinates with his connivance. The Court found it an aggravating circumstance that he had ~~ordered~~ ^{stating heart failure as the cause of death} the Medical Officer to issue death certificates for the two victims who had died as a result of the torture.

Appeal.

Defendants ARNDT, WEIMANN and KUPFER appealed to the Supreme Court on the following grounds:

(1) that the Lagnansrett had wrongly applied the substantive law when stating that the use of "verschürfte Vernehmung" was at variance with international law and maintained that they could not be held criminally responsible for having acted on superior orders.

(2) that the Lagnansrett had inflicted too severe a punishment.

Defendants ARNDT and WEIMANN launched an additional appeal on grounds of procedural law, defendant ARNDT maintaining that he had not been confronted with the witnesses before the main hearing and had thus not been given the opportunity to counter their statements. Defendant WEIMANN contended that he had not been ready to submit evidence on some of the counts of the indictment.

Defendant LAUER acquiesced with the sentence of the Lagnansrett.

Sentence of the Supreme Court, 30th August, 1947.

Defendants ARNDT and WEIMANN were sentenced to penal servitude for life. In the case of KUPFER, the sentence of the Lagnansrett was upheld.

Notes on the sentence by the Supreme Court.

Judge BERGER, the first judge to give his reasons, stated that he could not accept defendants ARNDT's and WEIMANN's plea regarding the alleged error as to the application of procedural law as both the defendants had had every opportunity during the main hearing to submit their counterevidence or to ask for an adjournment without having done so.

When dealing with the appeal regarding the application of substantive law, ^{it sufficed to make} Judge BERGER felt ~~satisfied by making~~ reference to the interpretation of law ^{the} laid down by the Supreme Court in the judgments passed against KLINGE (Law and Trial Report 30), Bruns and others (Law and Trial Report 26 32) and KOSTING and others (Law and Trial Report 36). He said he did not find it necessary to go into the same arguments all over again but only wanted to point out that the crimes in question were in violation of the laws of humanity and that the plea, therefore, must be rejected.

Next Judge BERGER dealt with the appeal against the degree of punishment in connection with defendant ARNDT. The Judge recalled the series of serious crimes

committed by the defendants but pointed out that in his opinion the sum total of the crimes was not of the same gravity as in the case of some previous German war criminals who had been sentenced to death. He, therefore, suggested that the punishment ^{be} committed to penal servitude for life.

When considering the appeal of defendant WEIMANN, Judge BERGER said that though it had been found by the Lagmannsrett that the defendant had been aware of what his subordinates were doing, he himself had never ill-treated any of the prisoners. Defendant was chief of a large district where he was unable to follow each individual case personally. He had been apparently intent on following his own country's interests to the best of his understanding. Judge BERGER, therefore, again suggested that the sentence be committed to penal servitude for life.

As to defendant KUPER, Judge BERGER said that he was satisfied that the defendant was guilty of having approved of the brutal methods of his subordinates and that therefore there was no reason for reducing the punishment.

Judge ALTEN voted for the death sentence for all three defendants. He said that in his opinion the torture of prisoners with the intent of extorting information and admissions, was a war crime of exceedingly serious character. What made it even more aggravating was that the German Sipo was a political body whose origin, recruiting of members and activities were those of a criminal organisation.

Defendant ARNDT had been found guilty of the torture of altogether 24 named Norwegians. His victims had suffered great physical pain and several had received lasting injuries. The defendant had extremely zealously employed the torture methods foreseen by the German police, methods which to a great extent entirely depended on the person of the interrogator. And for that reason Judge ALTEN supported the sentence of the Lagmannsrett, basing his arguments on what had been said in the case against KLINGE (Law and Trial Report 30).

As to defendant WEIMANN, he had certainly not ill-treated the prisoners himself, but as the Kommandör or Chief of the Sipo in Bergen, he bore the main responsibility for the torture which his officials executed with his connivance or approval.

Defendant KUPER, too, had not tortured prisoners himself. But again his superior position had to be taken into consideration. Owing to his position, the defendant, had he so desired, could have prevented the excessive and extreme use of torture. In two cases of "verschärfte Vernehmung" which were conducted under him, the prisoners had died as a result. He had done nothing to investigate the deaths, neither had he done anything to prevent further excessive torture.

Of the remaining seven judges, four supported Judge BERGER and three supported Judge ALTEN.

